

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

UNITED STATES OF AMERICA

VERSUS

CRIMINAL NO: 5:98-cr-13-DCB-1

BOBBY WILSON, JR.

DEFENDANT

ORDER

This cause comes before the Court on Defendant's Motion for Records and Transcript [document entry no. 76]. Having considered the said Motion, the Government's response, applicable statutory and case law, and being otherwise fully advised in the premises, the Court finds and orders as follows:

Petitioner has filed a § 2255 motion, asking the Court to provide him with a free copy of his records and transcript so that he may challenge his state court guilty plea. In order to file a motion pursuant to 28 U.S.C. § 2255, a petitioner must be in "custody under a sentence of a court established by Congress." Because Petitioner is serving a state court sentence, he is not entitled to relief under § 2255.¹ Additionally, Petitioner does not have a habeas petition pending before the Court, and therefore the Court lacks jurisdiction to entertain his request. United States v. Carvajal, 989 F.2d 170, 170 (5th Cir. 1993); Walker v.

¹ Petitioner's federal sentence was terminated on March 24, 2007. Petitioner does not appear to be challenging this sentence in his present motion; however, the Court notes that any challenge to this sentence is procedurally barred. United States v. Flores, 135 F.3d 1000, 1006 (5th Cir. 1998).

United States, 424 F.2d 278, 278 (5th Cir. 1970). As Petitioner is not in federal custody, has completed his federal sentence, and has no basis for relief under § 2255, the Court finds that Petitioner's motion is without merit.

Accordingly,

IT IS HEREBY ORDERED that the Petitioner's Motion for Records and Transcript [docket entry no. 76] is **DENIED**.

SO ORDERED AND ADJUDGED this the 29th day of August 2011.

/s/ David Bramlette

UNITED STATES DISTRICT JUDGE